

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21680 of 2014

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Jai Prakash Narain Son of Late Uma Shankar Singh Resident of Village - Shankardih, P.S- Terwalpur in the District of Nalanda. At present in the Office of General Manager Cum-Chief Engineer, Saharsa Koshi East Supply Office, Saharsa.

... .. Petitioner

Versus

1. The Power Holding Company through its Chief Managing Director, Vidyut Bhawan, Bailey Road, Patna
2. The Secretary, Power Holding Company, Vidyut Bhawan, Bailey Road, Patna.
3. The General Manager Cum-Chief Engineer, Koshi Electric Supply Area, Saharsa.
4. The Joint Secretary, General Administration, Power Holding Company, Vidyut Bhawan, Bailey Road, Patna
5. The Managing Director, North Bihar, Power Holding Company, Vidyut Bhawan, Bailey Road, Patna.
6. The Deputy General Manager-cum-Electrical Superintending Engineer, Koshi Area Board, Saharsa.
7. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Jayram Sharma
For the Board/NBPDCL	:	Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Vijay Kumar Verma & Mr. A.Singh
For the State	:	Mr. Manoj Kumar Sinha, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 28-01-2019 Heard learned Counsel for the petitioner and the learned Counsel appearing on behalf of the Board as well as the learned Counsel for the respondent State.

The petitioner has approached this Court for quashing of the office order No. 287 dated 13.5.2010, whereby and whereunder the minimum salary of Rs. 4400/- with effect from 1.6.2009 has been granted to the petitioner.

Counsel for the petitioner submits that in light of the



observations contained in order dated 25.4.2013 passed in MJC No. 2946 of 2010, earlier filed by the petitioner alleging violation of the order dated 8.3.2010 passed in CWJC No. 2362 of 2010. The petitioner's entitlement to revised basic pay of Rs. 6140/-, was finally decided.

Mr. Singh, learned Counsel appearing on behalf of the Board, submits that petitioner continues to be a daily wager in the respondent Board/successor Bihar State Power Holding Company Limited. Drawing attention of the Court towards the petitioner's claim in CWJC No. 2362 of 2010, it is submitted that both regularisation and revised scale was being claimed by the petitioner. The benefits of revised scale at par with Class IV employees claimed in the earlier round of proceedings was consequential relief dependent upon his regularisation, that is apparent from the order of this Court in the earlier proceedings, the relevant extract is being reproduced herein:-

“Petitioner has filed this writ application praying, inter alia, to direct the Board to consider the case of the petitioner for regularisation as also to grant benefit of the revised scale which is being paid to the other regular class – iv employees.”

It was in this light that the respondents were required



to make a consideration of the petitioner's claim for regularisation. Though his services have not been regularised but admissible scale/pay to which the petitioner is entitled has been granted to him under decision of the erstwhile Board which is impugned in the instant writ petition. Petitioner's reliance on the order passed in CWJC No. 2362 of 2010 is unsustainable as would also be apparent from the order passed in the contempt proceedings arising out of the same. The order dated 25.9.2013 in MJC No. 2946 of 2010 therefore is after taking note of the benefits granted to the petitioner, as follows:-

“It is, however, observed that if ultimately the submission made on behalf of the petitioner succeeds and he is held entitled for revised basic pay of Rs. 6140/- the authorities of the Board may be liable to pay interest @ 6% to the petitioner which shall be recovered from the pocket of those who are found responsible for delay in payment to the petitioner.”

The claim of the petitioner has, thereafter, been considered in light of the communication made by the General Manager -cum- Chief Engineer to the Joint Secretary of the Board as contained in Annexure 20 series of the writ petition. The final entitlement of the petitioner after due consideration having regard to the fact that the petitioner is a daily wager has



been finally decided and by office order dated 13.5.2010 the minimum salary of Rs. 4400/- with effect from 1.6.2009 as per the petitioner's entitlement has been given to the petitioner. Other than submitting that the petitioner is entitled to higher scale in terms of the order dated 25.9.2013 in MJC No. 2946 of 2010, no other departmental decision, instruction or any extant, rule has been placed on record to show that the petitioner a daily wager is entitled to the revised basic pay of RS. 6140/- meant for the regular/permanent employees.

As noticed above the entitlement to the basic pay of Rs. 6140/- was not final and conclusive in the order passed in MJC No. 2946 of 2010. If that had been so this Court would not have observed that ultimate decision was to be taken by the Department and only if the petitioner was found entitled to revised basic pay of Rs. 6140/- then the same was to be paid to him along with interest @ 6%.

Since the petitioner has not been found entitled to the same after the exercise undertaken in light of the order dated 25.9.2013 in MJC No. 2946 of 2010, the petitioner cannot claim the said basic pay of Rs. 6140/- as otherwise his claim is not based on any other extant, departmental order, circular or instruction.



The writ petition is dismissed as devoid of merit.

(Madhuresh Prasad, J)

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